



U.S. Department of Justice
Civil Division, Federal Programs Branch
1100 L Street NW
Washington, DC 20005

September 28, 2020

VIA ECF

The Honorable Nicholas G. Garaufis
United States District Judge
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: *State of New York, et al. v. Trump, et al.*, No. 17-cv-5228 (NGG) (JO)

Dear Judge Garaufis:

Defendants respectfully submit this unopposed motion to amend the briefing and argument schedule in the above-referenced matter to re-align it with the schedule currently set forth in *Batalla Vidal, et al. v. Wolf, et al.*, No. 16-cv-4756 (NGG) (JO). Defendants respectfully request the Court's endorsement of the schedule below.

On August 24, 2020, the Court entered a double-captioned scheduling order that set one unified schedule in both the above-captioned matter (*see State of New York* ECF No. 270), and in the related matter, also pending before this Court, which challenges the same agency actions on more-or-less the same theories (*see Batalla Vidal v. Wolf*, 16-cv-4756, ECF No. 307). These two related cases challenging various DACA-related policies have been litigated in parallel before this Court for the past three years. The Court's combined scheduling order thus set the following summary-judgment briefing and argument deadlines in both cases:

- **August 28, 2020 at 12:00 pm:** Plaintiffs' amended complaints and motions for partial summary judgment.
- **September 11, 2020 at 12:00 pm:** Defendants' oppositions and cross-motions for partial summary judgment.
- **September 25, 2020 at 12:00 pm:** Plaintiffs' oppositions and replies.
- **October 2, 2020 at 12:00 pm:** Defendants' replies.
- **October 7, 2020 at 2:00 pm:** Oral argument.

State of New York ECF No. 270; *Batalla Vidal* ECF No. 307.

On September 21, 2020, the *Batalla Vidal* Plaintiffs (but not the *State of New York* Plaintiffs) filed a motion for an extension of time. *Batalla Vidal* ECF No. 328. Defendants did not oppose that motion, and the Court granted it. *See* September 23, 2020 Minute Order in *Batalla Vidal* ("Plaintiffs' [328] request for an extension of time until September 30, 2020 and for leave to file a reply of 35 pages is GRANTED. Accordingly, Defendants' brief will be due on October 7, 2020. Oral argument will be held after briefing is complete, on a date to be determined. The

parties are DIRECTED to contact the court's deputy . . . to schedule.”). Accordingly, in the *Batalla Vidal* matter, the new schedule is as follows:

- **September 30, 2020 at 12:00 pm:** Plaintiffs' opposition and reply.
- **October 7, 2020 at 12:00 pm:** Defendants' reply.
- **TBD:** Oral argument.

At least as a formal matter, however, the schedule in the above-captioned *State of New York* remains unchanged. Accordingly, although none of the parties in the above-captioned *State of New York* matter requested any alteration of the schedule, the result of the extension in the *Batalla Vidal* matter is that the schedule in *this* matter is now proceeding on a separate track. This has introduced complexity and inefficiency that this Court presumably did not intend—for example, the oral argument in the *State of New York* matter is still set for 2 p.m. on October 7, 2020, but Defendants also owe their reply brief in the *Batalla Vidal* matter on that same day. And Defendants now owe two different reply briefs, just days apart from each other—even though Defendants' practice in these cases has been to file identical, double-captioned briefs on both dockets in these cases, in order to lessen the burden on the Court and minimize duplicative briefing.

Plaintiffs in the *State of New York* matter filed their combined opposition and reply on September 25, 2020. Accordingly, Defendants now respectfully request that the remaining deadlines in the *State of New York* matter be amended slightly, as follows, so that the *State of New York* matter and the *Batalla Vidal* matter may once again proceed on the same track:

- **October 7, 2020 at 12:00 pm:** Defendants' reply.
- **TBD:** Oral argument.

Plaintiffs do not oppose this request.

As contemplated by the Court's September 23, 2020 Minute Order in the *Batalla Vidal* matter, Defendants will promptly confer with counsel for both sets of Plaintiffs, and will then contact the Court's deputy in order to identify a mutually agreeable date for a combined oral argument in both of these related matters.

Dated: September 28, 2020

Respectfully submitted,

JEFFREY BOSSERT CLARK
Acting Assistant Attorney General

SETH D. DuCHARME
Acting United States Attorney

BRAD P. ROSENBERG
Assistant Branch Director

/s/ Stephen M. Pezzi
GALEN N. THORP
Senior Trial Counsel
STEPHEN M. PEZZI
RACHAEL L. WESTMORELAND
Trial Attorneys
United States Department of Justice
Civil Division, Federal Programs Branch
1100 L Street NW
Washington, DC 20005
Phone: (202) 305-8576
Fax: (202) 616-8470
Email: stephen.pezzi@usdoj.gov

JOSEPH A. MARUTOLLO
Assistant U.S. Attorney
United States Attorney's Office
Eastern District of New York
271-A Cadman Plaza East, 7th Floor
Brooklyn, NY 11201
Phone: (718) 254-6288
Fax: (718) 254-7489
Email: joseph.marutollo@usdoj.gov

Attorneys for Defendants